



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,073	10/27/2003	William D. Scott	30487.84216-001	3802
7590 02/22/2006 Warner Norcross & Judd LLP 900 Fifth Third Center 111 Lyon Street, N.W. Grand Rapids, MI 49503-2487			EXAMINER FETSUGA, ROBERT M	
			ART UNIT 3751	PAPER NUMBER

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/694,073
Filing Date: October 27, 2003
Appellant(s): SCOTT, WILLIAM D.

MAILED
FEB 22 2006
Group 3700

Charles E. Burpee
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed January 03, 2006
appealing from the Office action mailed August 16, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,086,525	Christopher	02/1992
3,274,315	Kawamura	09/1966
3,697,633	Edgar	10/1972

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 2 and 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christopher and Kawamura. The Christopher reference discloses a cover comprising: two single unitary piece (col. 3 lns. 33-35) plastic core portions/halves 40 including a hinge 75; and a jacket 20,30. The core halves exhibit the shape recited in claim 5. Therefore, Christopher teaches all claimed elements except for the core halves including upper and lower walls, ribs, and two edges. Although the rigid material of the Christopher structural member does not include upper and lower walls, ribs, and two edges, as claimed, attention is directed to the Kawamura reference which discloses an analogous structural member which further includes rigid material (col. 2 lns. 55-61) having upper and lower walls 1,

Art Unit: 3751

ribs 2, and two edges (Fig. 6). Therefore, in consideration of Kawamura, it would have been obvious to one of ordinary skill in the structural member art to associate upper and lower walls, ribs, and two edges with the Christopher structural member in order to impart strength while reducing weight. Re claim 9, the openings 3 between the ribs of the Kawamura structural member are "filled with air" in the same sense as with applicant's disclosed invention. Furthermore, air is an "insulating material" as recited in claim 8.

Claims 4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christopher and Kawamura as applied to claims 1 and 6 above, and further in view of Edgar. Kawamura further teaches filling the structural member openings 3 with solid material (col. 3 lns. 4-7). Although the filling material of the Kawamura structural member may not include foam, as claimed, attention is directed to the Edgar reference which discloses an analogous structural member which further includes foam filling material (col. 1 lns. 66-68). Therefore, in consideration of Edgar, it would have been obvious to one of ordinary skill in the structural member art to associate foam filling material with the Kawamura structural member in order to enhance insulating qualities.

(10) Response to Argument

Art Unit: 3751

Appellant argues at page 4 of the brief "Christopher is typical of the prior art hot tub covers described in the "Background of the Invention" and "Christopher suffers the precise problems that the present invention overcomes." However, appellant has not pointed to sufficient evidence to support this position. Initially, it is noted the Christopher reference (5,086,525) is not mentioned at page 1 of the instant specification where water soaking and structural strength of prior art spa covers is discussed. In any event, Christopher teaches a "completely moisture-proof spa cover" (col. 1 ln. 61) which would preclude any soaking in of water and subsequent weakening. Moreover, Christopher indicates the desirability for an insulating, structurally strong spa cover (col. 1 lns. 26-29) which is also lightweight (handles 51 are used to manually manipulate the cover). Appellant further argues at page 4 of the brief "Kawamura has nothing to do with hot tub covers." The examiner agrees with appellant in that the term "hot tub cover" is not found in Kawamura. And, the examiner also agrees with appellant in that Kawamura teaches a process for making structurally strong, unitary plastic cores to be employed for such uses as construction material and insulation. Appellant still further argues at page 4 of the brief "Edgar is not relevant to this appeal." The examiner is uncertain about this

Art Unit: 3751

statement. Appellant states at page 1 of this brief "[c]laims 1-2 and 4-9 are pending, finally rejected, and being appealed." Since the only rejection of appealed claim 4 includes the Edgar disclosure, Edgar indeed does appear to be "relevant" to appellant's stated appeal. Furthermore, Edgar teaches filling openings in a structural member with foam which is relevant to the invention recited in claims 1 and 4 (for example). Also, Edgar teaches obvious applications of such a structural member (col. 3 lns. 14-19). Appellant argues at page 5 of the brief there must be some teaching, suggestion or incentive to support a proper combination of prior art disclosures. The examiner agrees, and notes such "teaching, suggestion or incentive" has been established in the appealed grounds of rejection. In this regard, Christopher indicates the need for a spa cover having an insulative, strong core as noted supra. And, Kawamura teaches how to make an insulative and strong plastic core which is also lightweight (at least when provided with hollow openings). Clearly, Kawamura is pertinent to the problem faced by Christopher in providing an insulative, strong core. Appellant argues at pages 5-6 of the brief the elasticity disclosed in Kawamura "teaches away from the present invention". The examiner can not agree. Notwithstanding appellant's failure to indicate what portion of the Kawamura disclosure is being relied

Art Unit: 3751

upon to support this position, it appears the elasticity taught in Kawamura relates to an embodiment(s) of the structural core which has air cells (Figs. 7 and 8). To the extent this embodiment of the structural core "is not desired in a hot tub cover", as argued, such would appear equally as relevant to appellant's own disclosure where the structural core is "filled with air" (claim 9). Appellant argues at page 6 of the brief Kawamura is "nonanalogous art" to that of Christopher. The examiner can not agree as Kawamura is at least pertinent to the problem acknowledged by Christopher in providing an insulative, strong core as discussed supra.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

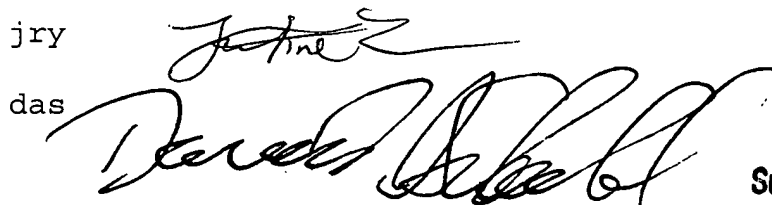
Respectfully submitted,


Robert M. Fetsuga

Conferees:

jry

das



David A. Scherbel
Supervisory Patent Examiner
Group 3700